

### Remarks

Reconsideration and further examination of the above-identified patent application in light of the present Amendment, Reply, and Remarks is respectfully requested.

Authorization is hereby given to charge any deficiency in fees or any other fees in connection with the above-identified patent application to our Deposit Account No. 23-0920.

Claims 1-21 were pending prior to this Amendment.

Claims 1-21 have been amended.

The matters objected to in claim 20 have been corrected as per the Examiner's requests in order to make the claims more definite and clear to better comply with 35 USC §112. The undersigned attorney thanks the Examiner for pointing out the error in Claim 20 so that it can be corrected.

Claims 1-21 are presently pending for the consideration of the Examiner.

In reply to the Restriction Requirement in the Patent Office Action mailed October 3, 2005, Applicant elects Group II, Claims 10-20.

The election is made with traverse and the applicant respectfully objects to the restriction requirement as being improper since both Group I and II are in the same class 521 and subclass 138. It is apparent from amended claim 9 in Group I and amended claim 20 in Group II that the final foamed products of Groups I and II are related inventions since they are claimed for the same use with the same operation, function and effect. We note that applicant's final foamed products are not analogous to a shoe and a locomotive as listed in MPEP § 806.04 cited by the Examiner nor analogous to a necktie and locomotive as listed in MPEP §808.01 cited by the Examiner.

Furthermore, it is respectfully submitted that the Examiner has not established reasons for insisting upon restriction because the Examiner has not shown by appropriate explanation the requirements set forth in MPEP § 808.02(A), (B) and (C).

Where the related inventions as claimed are shown to be distinct under the criteria of MPEP § 806.05(c) - § 806.05(i), the examiner, in order to establish reasons for insisting upon restriction, must show by appropriate explanation one of the following:

- (A) **Separate classification thereof:** This shows that each distinct subject has attained recognition in the art as a separate

subject for inventive effort, and also a separate field of search.

Patents need not be cited to show separate classification.

(B) **A separate status in the art when they are classifiable together:** Even though they are classified together, each subject can be shown to have formed a separate subject for inventive effort when an explanation indicates a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.

(C) **A different field of search:** Where it is necessary to search for one of the distinct subjects in places where no pertinent art to the other subject exists, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different field of search.

Moreover, as stated in MPEP § 808.02 no reasons exist for dividing among related inventions:

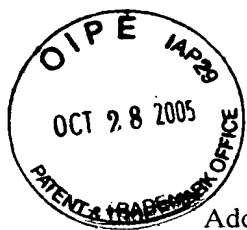
Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions.

In view of the above, reconsideration and further examination is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, reading "Thomas W. Tolpin", is written over a horizontal line.

Thomas W. Tolpin  
Registration Number 27,600  
Attorney for Applicants



Address:  
Welsh & Katz, Ltd.  
22nd Floor  
120 South Riverside Plaza  
Chicago, IL 60606  
Phone: (312) 655-1500